IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 8982 of 2006(T)

PETITIONER:

HAJI.K.A., AHAMMED PILLA AND CO.,
FRUIT MERCHANT, BUILDING NO.745 IN WARD NO.VII
OF ALUVA MUNICIPALITY, OPPOSITE ST.ANTONY'S
MONASTERY, NEAR RAILWAY STATION, ALUVA,
REPRESENTED BY ITS MANAGING PARTNER ABDUL KAREEM.

BY ADV. SRI.SHAJI P.CHALY

RESPONDENTS:
----

1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, LOCAL ADMINISTRATION,
SECRETARIAT, THIRUVANANTHAPURAM.

2. SECRETARY, ALUVA MUNICIPALITY,
ALUVA.

3. ST.ANTONY'S MONASTRY,
ALUVA, REPRESENTED BY ITS PRIOR.

BY ADV. SRI.V.M.KURIAN FOR R2
SRI.PIUS C.MUNDADAN FOR R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 8982/2006

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE CERTIFICATE ISSUED BY THE SALES TAX AUTHORITY DATED 20/06/03

EXHIBIT P2: TRUE COPY OF the RECEIPT EVIDENCING THE PAYMENT OF FEE DATED 15/08/68.

EXHIBIT P3: TRUE COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 16/03/2006.

EXHIBIT P4: TRUE COPY OF THE CHEQUE DATED 16/03/06.

EXHIBIT P5: TRUE COPY OF REPLY SUBMITTED BY THE PETITIOENR TO THE 2ND RESPONDENT DATED 16/03/06.

EXHIBITS OF R3

EXHIBIT R3(a): A TRUE COPY OF THE RENT AGREEMENT DATED 05/1/1970 EXECUTED BY SRI.K.A.AHMMED PILLAI IN FAVOUR OF THE 3RD RESPONDENT.

EXHIBIT R3(b): A TRUE COPY OF THE LAWYER NOTICE DATED 18/3/2006 ISSUED ON BEHALF OF THE 3RD RESPONDENT TO SRI.E.A.ABDUL KAREEM.

EXHIBIT R3(c): A TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT CARD EVIDENCING THE RECEIPT OF THE LAWYER NOTICE BY SRI.E.A.ABDUL KAREEM ON 20/3/2006.

EXHIBIT R3(d): A TRUE COPY OF THE RENT BILL DATED 01/7/2005 FOR THE MONTH OF JUNE 2005 ISSUED TO SRI.AHAMMED PILLAI.

EXHIBIT R3(e): A TRUE COPY OF THE RENT RECEITP DATED 30/7/2005 FOR THE RENT FOR JUNE 2005 ISSUED TO SRI.AHAMMED PILLAI.

EXHIBIT R3(f): A TRUE COPY OF THE RENT BILL DATED 1/8/2005 FOR THE MONTH OF JULY 2005 ISSUED TO SRI.AHAMMED PILLAI.

EXHIBIT R3(g): A TRUE COPY OF THE RENT RECEIPT DATED 31/8/2005 FOR THE RENT FOR JULY 2005 ISSUED TO SRI.AHAMMED PILLAI.

EXHIBIT R3(h): A TRUE COPY OF THE REPLY LAWYER NOTICE DATED 7/4/2006 ISSUED FOR AND ON BEHALF OF SRI.E.A.ABDUL KAREEM AND HIS MOTHER.

//TRUE COPY//

P.A. TO JUDGE

PIUS C.KURIAKOSE,J.

W.P.(C) NO. 8982 OF 2006

Dated this the 30th day of November, 2006

J U D G M E N T

Heard Sri.S.P.Chaly, counsel for the petitioner, Sri.Pius C.Mundadan, counsel for the monastery which owns the subject building and also Sri.V.M.Kurian, standing counsel for the Municipality.

2. Even though several serious contentions have been raised by the third respondent, I do not propose to consider the merits of either the claims raised by the petitioner or the contentions raised by the third respondent.

3. The petitioner has an effective remedy by way of appeal to the Tribunal against Exhibit P3. I relegate the petitioner to that remedy.

4. However, in view of the totality of the circumstances which attend on the case, there will be a direction to the Municipality not to initiate coercive process for compelling the eviction of the petitioner for a period of two months from today.

If the petitioner prefers an appeal against Exhibit P3 within two weeks of his receiving copy of this judgment, the Tribunal will

entertain the appeal as one filed on time and dispose of the same in accordance with law.

PIUS C.KURIAKOSE, JUDGE

Rp